IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.1403 of 2007

Date of decision: 26.9.2007.

L.R.Institute of Management ....Petitioner

-Versus-

H.P. University and another ….Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta,Judge.

The Hon'ble Mr.Justice V.K.Ahuja, Judge.

Whether approved for reporting? No

For the Petitioners: Mr.R.L.Sood, Senior Advocate with Mr.Vikas Rajput, Advocate.

For Respondents: Mr.V.D.Khidta, counsel for respondent N0.1.
Mr.S.R.Sharma, counsel for R-2.

Deepak Gupta, J.(Oral)

By means of this writ petition, the petitioner has prayed that a writ be issued to the respondent-University directing it to sponsor candidates for the MCA Course to be started by the petitioner.

Briefly stated the facts of the case are that the petitioner is running a Management Institute and was accorded approval for imparting education in the Master of Business Administration (MBA) course in the year 2006. It was duly affiliated with the H.P. University (University) for the said course.

The petitioner Society applied to the All India Council for Technical Education for starting Master of Computers Application (MCA) course on 5th April, 2007. The State of Himachal Pradesh

issued a letter on 22.5.2007 stating therein that it had no objection for introduction of the additional course of MCA in the petitioner Institute. On 28.5.2007 the State of Himachal Pradesh designated the H.P. University as the University to conduct the entrance examination.

The All India Council for Technical Education rejected the application for running additional course of MCA vide its letter dated June 11, 2007 mainly on the ground that there was shortage of faculty for running the proposed course. On 23rd June, 2007 the petitioner Institute sent a letter to the AICTE asking for reconsideration of the decision and enclosed therewith the undertaking that staff would be provided. Thereafter, the AICTE on July 27, 2007 granted approval to the petitioner Institute to run the MCA course subject to its depositing a sum of Rs.15 lakhs in a joint FDR. This amount has admittedly been deposited and the petitioner Institute was granted approval for running full time MCA course with intake of 60 students from the year 2007-2008 onwards.

On 22nd August, 2007 the H.P. University accepted the inspection report and granted provisional affiliation to the petitioner to run and admit 30 students to the MCA course for the academic session 2007-2008 on certain conditions. On 3rd September, 2007 the University revised the grant of affiliation and granted affiliation for 60 students. It would be pertinent to mention that the University also laid down a condition that the petitioner Society would ensure that the students complete the requisite number of lectures.

However, students were not sent after counseling to the petitioner-Institute. Hence, the present writ petition.

A Division Bench of this Court has dealt with a similar matter in great detail in CWP No.1397 of 2007 titled **Dreamz College of Pharmacy and another vs. State of H.P. and others.** The main defense of the University is that the admissions at such a belated stage cannot be ordered. In the aforesaid case this Court considered the entire legal provisions as well as the case law and held as follows:

> "It is thus evident that adherence to the time table for the courses is of paramount consideration and the same in no circumstances should be diluted. It may lead to lowering of academic standard besides causing administrative problems. In the normal circumstances, the Court would have not permitted any counseling even though it is imperative for the University to grant affiliation to the petitioner college, but since the counselling has already been fixed by the University on 18th September, 2007, the Court is making an exception by directing the University to hold the counseling for the students to be admitted to the petitioner's college. The other circumstance is that the course has just begin about a fortnight back and there won't be large scale violence to the time schedule prescribed after the counselling was over on 14th August, 2007."

The Court thereafter went on to hold as follows:

> "For the reasons mentioned in this judgment and on equitable considerations in the peculiar facts and circumstances of this case as have been noticed hereinabove, we have made an exception in the case of the petitioner by permitting the counselling to be held even at this belated stage. However, we do wish clearly to observe and direct that in future strict adherence to the Schedule fixed and prescribed in Ordinance 38.2 of the University (supra) has to be followed by every one concerned, including the University itself. It is expected that teaching institutions desirous of seeking affiliation or recognition from the university must submit their applications for this purpose to the university by 30th June of the year preceding that in which the teaching

> institution desires its affiliation or recognition. In terms of the provisions of Ordinance 38.2 (supra), the period can be extended only in rare cases up to 31st December of the year preceding by a specific, speaking and reasoned order to be passed by the Vice Chancellor in terms of the stipulations contained in the said proviso. Any teaching institution therefore which does not adhere to the aforesaid time schedule of 30th June of the year preceding or latest 31st December of the year preceding will not be permitted by this Court to seek affiliation or recognition from the University even though it has obtained the permission/affiliation/no objection from the AICTE."

We are in total agreement with the aforesaid observations of the said earlier Division Bench. The petitioner in the present case stands on a better footing than the petitioner in CWP No.1397 of 2007. In that case the University had not even granted affiliation to the petitioner Institute. In the present case the respondent-University had granted affiliation to the petitioner Institute for running the MCA Course. After granting affiliation the University cannot turn around and say that it will not sponsor students for the said course. This would be entire wastage of resources.

Keeping in view the decision rendered in CWP No.1397 of 2007 dated 14.9.2007 and peculiar facts of this case we direct that the respondent-University shall hold councelling from amongst the students who have qualified the MCA test and have not obtained admission in any other College and shall then send the names of 60 such students to the petitioner Institute. This be done positively within 15 days from today.

We are aware that the students who are now sponsored may not be able to complete the period of studies as required by the AICTE till the time regular examinations for the first semester are

held in December, 2007. We, therefore, direct that the petitioner Institute shall conduct special classes to ensure that the students complete the requisite number classes and lectures. If necessary the University shall conduct a special examination for the first semester for the students of the petitioner Institute. Since the examinations will be a special examination for students of the petitioner Institute the expenses of conducting the examinations shall be borne by the petitioner Institute.

With the aforesaid directions the writ petition is disposed of.

CMP No.2281 of 2007 & CMP No.2443 of 2007:

In view of the disposal of the main petition, no order is required to be passed in these applications. Disposed of accordingly.

Dasti copy.

(Deepak Gupta),
Judge

September 26, 2007.
PV

(V.K. Ahuja),
Judge